Emerging themes in accident compensation schemes

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Objectives

- Identify issues in different schemes
- Where there is commonality suggest way forward
The road ahead…

- Background
- Common themes across
  - Both CTP and workers compensation
  - Workers compensation only
  - CTP only
- What wasn’t on the radar for many schemes
- Some observations
Methodology

- Progressing previous survey carried out by HCTP
- Expanded to workers compensation
- Interviewed senior executives from most schemes
  - Discussed list of issues and questions with each scheme
  - Collated responses
  - Sort into common themes
  - Sought comments on draft presentation from each scheme
Its not that simple…

• Australia – 6 states and 2 territories
• New Zealand
• Comcare, Seacare and MRCS for workers comp
Its not that simple…

• Different scheme designs
  • Publicly vs privately underwritten
  • Common law vs non common law based
  • Monopoly vs agency vs insurer models
  • Different benefits, thresholds, limits, etc.

• Maturity profile of schemes vary
• Different political environments

• So what is on each schemes radar can differ
Terminology

- Issues and risks - not the best terms
- Issue = opportunity = past issue
Themes

- Topics grouped into themes
- Theme = seen across ≥ 2 schemes for CTP and WC
- Schemes have different “takes” on common themes
- Themes may hit schemes at different times
  - E.g. increased legal representation may be an issue for state Y, but may emerge in state X later
Accident comp – common themes
NDIS/NIIS

Opportunity
Interaction with existing schemes

Tight timeframe
Competition for resources

Devil in the detail
Eligibility

Impact on CTP schemes
Accident comp – common themes - NDIS/NIIS

• Opportunity
  • Most schemes see this as an opportunity to improve outcomes for some claimants

• Tight timeframe
  • Trying to implement too early could lead to a scheme that is not as intended

• Devil in the detail
  • A lot of detail is not yet decided

• Impact to CTP schemes
  • Impact on premium rates

• Eligibility
  • Would people be able to opt between schemes eg NIIS to CTP and what impact would that have on costs? Will it be irrevocable?

• Competition for resources
  • Generates greater demand for carers

• Interaction with existing schemes
  • Scope and boundaries of NIIS/NDIS are unclear
Accident comp – common themes
Health providers capability and capacity

- Mental injuries
- Lack of capacity
- Ability of service providers to deal with WC/CTP clients
- Inconsistencies of services across providers
- Some providers lacking capability
- Shifting attendant care from family to professional care
- NDIS/NIIS
- Geographic spread
Accident comp – common themes

Health providers capability and capacity

- Mental injuries
  - Lack of evidence based treatment
  - Lack of tools for diagnosis and treatment - can get conflicting opinions between two professionals
  - Poor treatment could lead to deterioration
- Ability of service providers to deal with WC/CTP clients
  - Only a few providers (GP) familiar with schemes and understand their obligations in treating them as these cases often form a small % of their workload
- Inconsistencies of services across providers
  - Models of care
  - Inconsistent insurer injury management practices
- Lack of capability
- Geographic spread
  - Poor access to treatment and facilities in regional and rural areas
- NDIS/NIIS – see previous
- Shifting attendant care from family to professional care
- Lack of capacity
Accident comp – common themes
Attracting and retaining skilled claims staff

- Difficult job
- Lack of people in the industry
- Difficult getting people into industry
- Attracting, and retaining skilled claims injury management staff
- PIEF
Accident comp – common themes
Attracting and retaining skilled claims staff

- Difficult job
  - Claims staff can’t satisfy all stakeholders and are under a lot of pressure
- Lack of people in the industry
- Difficult to get people into the industry
  - People usually fall into the industry rather than seeking to have a career in it

- PIEF is an excellent example of collaboration to address some of these issues
Accident comp – common themes
Pressure on premium rates

- Very high profile
- Historic lows
- Pressure on premium rates
- Comparisons between states
- Difficulty in raising premiums
Accident comp – common themes
Pressure on premium rates

- Very high profile
  - Increases in premiums generate media attention
  - Premium increases contribute to policyholder dissatisfaction
- Comparison between states
  - Media comparisons result in reputational risk, however comparisons are usually of apples and oranges
- Difficulty in raising premiums
  - Rates often have to be approved by politicians – harder to increase
- Historic lows
  - The only way for premiums in many schemes to go is up
  - Resistance to increasing premiums as community has grown accustomed to falling premiums
Accident comp – common themes
Common law and legal representation

- People looking for common law lump sum benefits
- Impact of lawyers
- Increasing proportion of scheme costs
- Sustainability of common law in the long run
- Other heads of damage creeping into common law
- Erosion of thresholds

Common law and legal representation
Accident comp – common themes

Common law and legal representation

- People looking for common law lump sum benefits
  - Establishment of a common law culture
  - May lead to people hanging onto weekly benefits, refusing to take rehab
- Increasing proportion of scheme costs
- Other heads of damage creeping into common law
  - E.g. gratuitous care
- Erosion of thresholds
  - Precedents, people testing/gaming an older system
- Sustainability of common law in the long run
- Increased disputation
- Impact of lawyers
  - Increased level of representation – lawyers advertising more
  - Discouraging rehabilitation
Accident comp – common themes
Fair Work Australia and care

- Fair Work impact on terms and conditions
- Availability of carers
- Adverse precedent
- Quality of care
Accident comp – common themes

Fair Work Australia and care

- Fair Work Australia impact on terms and conditions
  - Although many schemes have factored increases in awards, there is concern that there are flow on effects to terms and conditions to other employment
  - Small number of schemes believe there will still be some increases in the premium rates
- Availability of carers
  - Shortage of attendant carers
- Quality of care
  - You need certain skills to care for the catastrophically injured and this isn’t always available
- Adverse precedent
  - Either one or the accumulation of many adverse precedents resulting in higher levels of care being awarded to claimants who may not previously have been eligible
Workers Comp – common themes
Harmonisation of OH&S

Implementation by state may be inconsistent

May not be implemented by all

“Race to the bottom”

Timing
Workers Comp – common themes

Harmonisation of OH&S

• Implementation between states may be inconsistent
  • May simply not be implementing it consistently
  • States passing through model legislation with some variation
• May not be implemented by all
  • Stakeholder pressure may lead to difficulties in passing model legislation through
• Timing
  • Will it be implemented in line with original timeframes or at all?
• “Race to the bottom”
  • Will states be harmonising to the lowest common denominator, or will there be an overall improvement in OH&S standards?
Workers Comp – common themes

RTW

- Economic uncertainty
- Conflict between providers and RTW objective
- Mix of claims
- Impact of agents on RTW
- “Recover at work”
Workers Comp – common themes

RTW

• Economic uncertainty
  • Has a direct impact on weekly benefits due to duration
  • In downturn, lack of employment opportunities
• Mix of claims
  • Shift towards soft tissue and claims which are either wholly or have an element of psychological conditions (these typically have longer durations)
• “Recover at work”
  • Changing the culture (whether entitlement or lump sum) to encourage people to return to work and rehabilitate at work
• Impact of Agents on RTW
  • Different practices between agents leading to different RTW outcomes
• Conflict between legal/medical providers and RTW objectives
  • Providers may be reluctant to encourage a claimant to go back to work due to their duty of care to claimants
  • Providers may encourage a claimant to stay on benefits to meet thresholds and obtain a (larger) common law settlement
Workers Comp – common themes

Mental injury

- Secondary psych injuries
- Eligibility/legislative issues
- Increased awareness of mental illnesses in community
- Increasing costs from psychological conditions
- Adverse precedents
- Treatment methods
Workers Comp – common themes

Mental Injury

- Secondary psychological issues
  - Poor management of claims may give rise to secondary psychological issues
  - Suboptimal treatment can lead to deterioration
- Increased awareness of mental illness in the community
  - Global challenge of increased sick leave, rising mental illnesses
  - People more willing to put their hand up
- Adverse precedents
  - May raise more awareness
- Treatment methods
  - See notes on health provider capability and capacity
- Increasing costs from psychological conditions
  - Increased proportion of scheme costs
- Eligibility/legislative issues
- Some CTP schemes have noted the emergence of a trend in propensity to claim for mental only injuries and secondary psychological issues
Workers Comp – common themes
Provider fee pressure

- Lack of outcome based remuneration
- Differences in fee schedules across jurisdictions
- Only in certain hotspots/service types
- Improvements in technology and treatments
Workers Comp – common themes

Provider fee pressure

- Lack of outcome based remuneration
  - Danger of paying for sub-optimal outcomes
  - Creates additional issue with how to measure outcomes
- Only in certain hotspots/service types
  - Private hospitals and surgery are examples
- Improvements in technology and treatments
  - Often expensive, but with questionable outcomes
- Differences in fee schedules across jurisdictions
  - Where there are differences, providers may apply pressure to schemes with lower fees
CTP – common themes

General economic conditions

- Balance sheet shock
- Impact on investment returns
- Impact on level of driving activity
- Volatility in market
- Impact on RTW
- General economic conditions
CTP – common themes

General economic conditions

- Balance sheet shock
  - Impact of financial market volatility on asset liability management
- Discount rates
- Impact on level of driving activity (i.e. people drive less)
- Impact on RTW
  - Less opportunity for people to RTW
- Volatility in markets
- Impact on investment returns
CTP – common themes
Injury and accident prevention

Opportunity and risk

Where next big step down will come from

Differences in accident frequency between states

Injury/Accident prevention

Changing attitudes to road safety

Biggest driver of scheme costs
CTP – common themes

Injury and accident prevention

• Opportunity and risk
• Differences in accident frequency between states
  • Due to infrastructure
  • Geography
• Changing attitudes to road safety (road users)
• Biggest driver of scheme costs
• Where next big step down will come from
  • Frequencies have plateaued
  • To date injury prevention has been highly successful with safer
cars, infrastructure, etc., so where’s the next step?
  • Not all schemes in charge of road safety, what if road safety
  budget is cut
CTP – common themes
National heavy vehicle registration scheme

Potential loss of premiums
National Heavy Vehicle Registration scheme
How it will be enforced and regulated
Potential increase in the number of unregistered vehicles
CTP – common themes

National heavy vehicle registration scheme

• Potential loss of premiums
• How it will be enforced and regulated
• Potential increase in the number of unregistered vehicles

• Since the HCTP work, many schemes have lowered their assessment of this risk
What is not on the radar for many schemes for now

- Harmonization of benefits for WC
- Better management of health and allied medical providers
- Health and hospital reforms
Observations

- What do we take away from this?
- Some common themes, but few across entire spectrum
- Scheme differences → different concerns/challenges/opportunities

- It may be useful to
  - Share details of problems
  - Share where things have gone wrong
  - Other schemes can learn and/or share their solutions
  - Meetings at operational level/secondments
Observations – continued

- Greater consultation to recognise scheme differences
  - E.g. a scheme being consulted should ask for feedback from private/public, common law/non common law schemes
- Some ongoing themes that won’t be fully resolved, but worthy of combined effort
  - How to attract, train up and retain skilled claims staff
Questions ?